

Advisory Opinion

IECDB AO 2006-14

December 21, 2006

The Honorable Judy Babcock
Chickasaw County Auditor
Chickasaw County Courthouse
8 East Prospect
PO Box 311
New Hampton, Iowa 50659

Dear Auditor Babcock:

This opinion is in response to your email letter of September 28, 2006, requesting an opinion from the Iowa Ethics and Campaign Disclosure Board pursuant to Iowa Code section 68B.32A(11) and Board rule 351—1.2. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

FACTUAL STATEMENT:

In your county certain members of the Board of Supervisors running for election believe they are entitled to receive free of charge updated lists of people who have voted by absentee ballot. Creating such a list is part of your official duties. You state that the same opportunity to access this information without charge is not afforded to other candidates.

QUESTION:

Is it permissible for certain candidates to access free of charge absentee ballot lists that are not provided free of charge to other candidates?

OPINION:

The Board has extensive rules on the prohibition on use of public resources for political purposes.¹ An exception exists for situations when a public resource is made open to a "member of the general public." The Board also permits reimbursement for the use of public resources so long as the reimbursement is for the "actual costs of the public resource" or for the "same amount charged to a person using the public resource for any purpose."

Therefore, the Board is of the opinion that if your office is going to make available absentee ballot lists to any candidate, the lists must be made available to all candidates. In addition, if there is a cost assessed by your office in providing these lists, every candidate for state or local public office in Iowa shall pay that cost regardless of what office the candidate currently holds or is seeking.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
Janet Carl, Vice Chair
Gerald Sullivan
Betsy Roe
John Walsh
Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel

¹See rules in 351—Chapter 5.